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Attorneys for Defendants
C. R. Bard, Inc. and
Bard Peripheral Vascular, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

IN RE: Bard IVC Filters Products Liability
Litigation,

No. 2:15-MD-02641-DGC

**DEFENDANTS' UNOPPOSED
MOTION TO STAY EXECUTION OF
THE JUDGMENT PENDING APPEAL
AND TO APPROVE SUPERSEDEAS
BOND**

SHERR-UNA BOOKER, an individual,

(Assigned to the Honorable David G.
Campbell)

Plaintiff,

v.

CASE NO. CV-16-00474-PHX-DGC

C. R. BARD, INC., a New Jersey
corporation and BARD PERIPHERAL
VASCULAR, INC., an Arizona
corporation,

Defendants.

1 Plaintiff Sherr-Una Booker has represented that she does not oppose this motion.

2 On July 9, 2018, this Court entered a judgment in the amount of three million six
3 hundred dollars (\$3,600,000.00) plus post-judgment interest at the rate of 2.33% per
4 annum for Plaintiff in this action which was tried by a jury in March 2018. Defendants
5 C. R. Bard, Inc. and Bard Peripheral Vascular, Inc. (collectively, “Bard”) request that the
6 Court stay execution of the judgment pending appeal and approve supersedeas bond,
7 attached as Exhibit A, in the amount of \$3,767,760.00 to cover the judgment as well as
8 post-judgment interest.

9 Rule 62(d) of the Federal Rules of Civil Procedure provides: “If an appeal is taken
10 the appellant may obtain a stay by supersedeas bond. The bond may be given upon or
11 after filing the notice of appeal or after obtaining the order allowing the appeal. The stay
12 takes effect when the court approves the bond.” Fed. R. Civ. P. 62(d). It is well settled that
13 under Rule 62(d), an appellant is entitled to a stay as a matter of right pending the posting
14 of a supersedeas bond in a sufficient amount. *See Am. Mfrs. Mut. Ins. Co. v. Am.*
15 *Broadcasting–Paramount Theatres*, 87 S. Ct.1, 3 (1966) (holding that “a party taking an
16 appeal from the District Court is entitled to a stay of a money judgment as a matter of
17 right if he posts a bond in accordance with” the relevant federal rules); *In Re: Wymer*, 5
18 B.R. 802, 804 (B.A.P. 9th Cir. 1980).

19 Bard now requests approval of its supersedeas bond in the amount of
20 \$3,767,760.00, which will stay execution on the judgment pending appeal. This amount
21 covers the judgment of \$3,600,000.00 and post-judgment interest in the amount of
22 \$167,760.00.¹

23
24 ¹ The total for post-judgment interest was calculated based on the Court’s per annum
25 figure of 2.33% and for a period of 24 months. According to the Administrative Office of
26 the United States Courts’ most recent statistics, in the Ninth Circuit for the 2016–2017
27 period, the median time from filing of a notice of appeal to disposition of that appeal was
28 21.9 months (without oral argument) to 22.8 months (with oral argument). The 24-month
post-judgment interest period is therefore above the high-end of the median period for
disposition in the Ninth Circuit. *See U.S. Courts of Appeals—Median Times for Civil and
Criminal Cases Terminated on the Merits—During the 12-Month Periods Ending
September 30, 2016 and 2017, available at* <http://www.uscourts.gov/statistics/table/b-4a/judicial-business/2017/09/30>.

CONCLUSION

For the foregoing reasons, Bard respectfully requests that the Court grant this Motion and approve its supersedeas bond in the amount of \$3,767,760.00 and for all other just and proper relief.

RESPECTFULLY SUBMITTED this 19th day of July, 2018.

s/ Richard B. North, Jr.
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**Attorneys for Defendants C. R. Bard, Inc. and
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CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of July, 2018, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to all attorneys of record.

s/Richard B. North, Jr.
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